



March 17, 2009

ENGROSSED SENATE BILL No. 376

DIGEST OF SB 376 (Updated March 12, 2009 9:35 am - DI 116)

Citations Affected: IC 5-10; IC 36-8.

Synopsis: Line of duty disability from Parkinson's disease. Creates a presumption that a police officer, firefighter, or emergency medical services provider who is diagnosed with Parkinson's disease after being exposed to certain toxins or trauma has incurred a line-of-duty disability. (Current law provides that certain cancers or heart or lung disease is presumed to have been incurred in the line of duty.)

Effective: July 1, 2009.

**Merritt, Wyss, Tallian, Deig, Arnold,
Randolph**

(HOUSE SPONSORS — SULLIVAN, MOSELEY)

January 8, 2009, read first time and referred to Committee on Pensions and Labor.
February 19, 2009, reported favorably — Do Pass.
February 23, 2009, read second time, ordered engrossed. Engrossed.
February 24, 2009, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 3, 2009, read first time and referred to Committee on Veterans Affairs and Public Safety.
March 16, 2009, amended, reported — Do Pass.

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ES 376—LS 6136/DI 116+



March 17, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 376

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-15-2, AS ADDED BY P.L.62-2006,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 2. As used in this chapter, "at risk for occupational
4 exposure" means that an individual incurs risk in performing the basic
5 duties of the individual's employment, including:

6 (1) providing emergency medical treatment in a nonhealth care
7 setting where there is a potential for contact with;

8 (2) working at the scene of an accident, a fire, or another rescue
9 or public safety operation, or working in an emergency rescue
10 vehicle or a public safety vehicle, during which the individual has
11 contact with;

12 (3) engaging in the pursuit, apprehension, and arrest of law
13 violators, during which the individual may be exposed to; or

14 (4) maintaining custody and physical restraint of prisoners or
15 inmates of a prison, a jail, or another criminal detention facility
16 during which the individual may be exposed to;

17 a known carcinogen, or a substance or condition that adversely affects

ES 376—LS 6136/DI 116+



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an individual's cardiovascular, **neurological**, or respiratory system.

SECTION 2. IC 5-10-15-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. As used in this chapter, "exposure related Parkinson's disease" refers to Parkinson's disease that is caused by a toxin or head trauma:**

(1) **known to increase the risk for the development of Parkinson's disease; and**

(2) **to which an individual is at risk for occupational exposure.**

SECTION 3. IC 5-10-15-8, AS ADDED BY P.L.62-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8. As used in this chapter, "substance or condition that adversely affects an individual's cardiovascular, **neurological**, or respiratory system" refers to a substance or condition the exposure to which is recognized by the National Institute for Occupational Safety and Health as creating a high risk for the development of heart, ~~or~~ lung, or Parkinson's disease.**

SECTION 4. IC 5-10-15-9, AS ADDED BY P.L.62-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9. (a) An employee or former employee who:**

(1) **is diagnosed with an exposure related cancer, ~~or~~ exposure related heart or lung disease, or exposure related Parkinson's disease that:**

(A) **requires medical treatment; or**

(B) **results in total or partial disability; and**

(2) **at the time of the diagnosis:**

(A) **is actively employed; or**

(B) **has terminated employment not more than sixty (60) months earlier;**

is presumed to have a disability incurred in the line of duty.

(b) **The presumption described in subsection (a) may be rebutted by competent evidence.**

(c) **A meeting or hearing held to rebut the presumption described in subsection (a) may be held as an executive session under IC 5-14-1.5-6.1(b)(1).**

SECTION 5. IC 36-8-8-12.5, AS AMENDED BY P.L.62-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 12.5. (a) This section applies only to a fund member who:**

(1) **is hired for the first time after December 31, 1989;**

(2) **chooses coverage by this section and section 13.5 of this chapter under section 12.4 of this chapter; or**

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(3) is described in section 12.3(c)(2) of this chapter.

(b) At the same hearing where the determination of whether the fund member has a covered impairment is made, the local board shall determine the following:

(1) Whether the fund member has a Class 1 impairment. A Class 1 impairment is a covered impairment that is the direct result of one (1) or more of the following:

(A) A personal injury that occurs while the fund member is on duty.

(B) A personal injury that occurs while the fund member is off duty and is responding to:

(i) an offense or a reported offense, in the case of a police officer; or

(ii) an emergency or reported emergency for which the fund member is trained, in the case of a firefighter.

(C) An occupational disease (as defined in IC 22-3-7-10). A covered impairment that is included within this clause and subdivision (2) shall be considered a Class 1 impairment.

(D) A health condition caused by an exposure risk disease that results in a presumption of disability or death incurred in the line of duty under IC 5-10-13.

(2) Whether the fund member has a Class 2 impairment. A Class 2 impairment is a covered impairment that is:

(A) a duty related disease. A duty related disease means a disease arising out of the fund member's employment. A disease shall be considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause; or

(B) a health condition caused by:

(i) an exposure related heart or lung disease; or

(ii) an exposure related cancer; or

(iii) exposure related Parkinson's disease;

that results in a presumption of disability incurred in the line of duty under IC 5-10-15.

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- 1 (3) Whether the fund member has a Class 3 impairment. A Class
- 2 3 impairment is a covered impairment that is not a Class 1
- 3 impairment or a Class 2 impairment.

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 376, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 376 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 8, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred Senate Bill 376, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, after line 35, begin a new paragraph and insert:

"SECTION 5. IC 36-8-8-12.5, AS AMENDED BY P.L.62-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009] : Sec. 12.5. (a) This section applies only to a fund member who:

- (1) is hired for the first time after December 31, 1989;
- (2) chooses coverage by this section and section 13.5 of this chapter under section 12.4 of this chapter; or
- (3) is described in section 12.3(c)(2) of this chapter.

(b) At the same hearing where the determination of whether the fund member has a covered impairment is made, the local board shall determine the following:

- (1) Whether the fund member has a Class 1 impairment. A Class 1 impairment is a covered impairment that is the direct result of one (1) or more of the following:
 - (A) A personal injury that occurs while the fund member is on duty.
 - (B) A personal injury that occurs while the fund member is off duty and is responding to:
 - (i) an offense or a reported offense, in the case of a police officer; or
 - (ii) an emergency or reported emergency for which the fund member is trained, in the case of a firefighter.
 - (C) An occupational disease (as defined in IC 22-3-7-10). A

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covered impairment that is included within this clause and subdivision (2) shall be considered a Class 1 impairment.

(D) A health condition caused by an exposure risk disease that results in a presumption of disability or death incurred in the line of duty under IC 5-10-13.

(2) Whether the fund member has a Class 2 impairment. A Class 2 impairment is a covered impairment that is:

(A) a duty related disease. A duty related disease means a disease arising out of the fund member's employment. A disease shall be considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

- (i) there is a connection between the conditions under which the fund member's duties are performed and the disease;
- (ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and
- (iii) the disease can be traced to the fund member's employment as the proximate cause; or

(B) a health condition caused by:

- (i) an exposure related heart or lung disease; ~~or~~
- (ii) an exposure related cancer; **or**
- (iii) exposure related Parkinson's disease;**

that results in a presumption of disability incurred in the line of duty under IC 5-10-15.

(3) Whether the fund member has a Class 3 impairment. A Class 3 impairment is a covered impairment that is not a Class 1 impairment or a Class 2 impairment."

and when so amended that said bill do pass.

(Reference is to SB 376 as printed February 20, 2009.)

TINCHER, Chair

Committee Vote: yeas 10, nays 0.

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